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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,138	01/30/2002	Benjamin C. Rivera	DBH:756.714	5678
152	7590	02/25/2004	EXAMINER	
CHERNOFF, VILHAUER, MCCLUNG & STENZEL 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204-3157			WEAVER, SUE A	
		ART UNIT	PAPER NUMBER	
		3727		

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

JK

Office Action Summary	Application No.	Applicant(s)	
	10/066,138	RIVERA ET AL.	
	Examiner Sue A. Weaver	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 2-10, 13-20, 22, 24 and 26-28 is/are allowed.
- 6) Claim(s) 11 and 25 is/are rejected.
- 7) Claim(s) 12, 23 and 29 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

1. Claims 23 and 29 are objected to because of the following informalities:
Applicants are advised that there doesn't appear to be any proper antecedent basis in claims 15 or 28 for "said body" claimed in claims 23 and 29. A body has not been set forth in these claims. Appropriate correction is required.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frey, cited by applicants.

The portion of the clip with the slot (f) of Frey is considered to define the back member of the body. The bent portion defines an arm having an upper end and a lower end and including a hook facing toward the back member at (c). Since B is an extension of the back member, the upper end of the clip is attached to the back member. Note that the shape of member c provides an upwardly directed catch which is engageable with the slot or opening at f, as claimed.

3. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of either Goto or Kamiya, all of record.

Applicants have argued that Yamada doesn't teach outwardly projecting ears extending from each side member. However, The extensions of the sides beyond members 2c extend outwardly from the side members away from the back and therefore do in fact define outwardly projecting ears on the side members. Admittedly Yamada may not provide a recess or opening in the lower end wall. However, such a recess is suggested by Goto in broken lines in Figure 2. Furthermore, Kamiya clearly

teaches the provision of an opening in the lower end wall as shown in Figure1 and also Figure 4 to aid in removing the device. Therefore to have merely included a recess or opening in the lower end wall to aid in removing the device would have been obvious in view of either Goto or Kamiya.

4. Applicant's arguments with respect to claims 11 and 25 have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's arguments, see paragraphs 1 and 2 of page 11, paragraph 2 of page 12 and paragraph 1 of page 13of the amendment, filed 11/24/03, with respect to the objection of claims 2-10, 13, 14 and 21 and the rejection of claims12, 15-20, 22, and 24 have been fully considered and are persuasive. The rejections and objection of the claims have been withdrawn.
6. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 2-10, 13-20, 22, 24 and 26-28 are allowed.
8. Claims 23 and 29 would be allowed upon correction and claims 1 and 21 have been canceled.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Benward and Goldman show other tool holders with mounting clips and a recess or opening in the lower end wall, as claimed.
10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) ____ - ____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

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— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


Sue A. Weaver
Primary Examiner